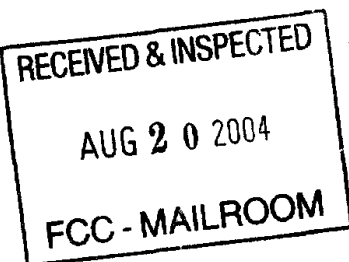


DOCKET FILE COPY ORIGINAL

Express Mail ER789764315US

Before the
Federal Communications Commission
Washington, D.C. 20554



In the Matter of the)	File No. SLD -
)	
Appeal of the Decision of the)	
)	
Universal Service Administrator by)	
the)	
)	
Nicholas County School District)	
)	
)	
)	CC Docket No. 96 - 45
Federal-State Joint Board on)	
Universal Service)	
Changes to the Board of Directors of)	
The National Exchange Carrier)	
Association, Inc.)	CC Docket No. 97 - 21

Appeal
and
Request for Expedited Relief

August 17, 2004

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W. Suite TW-A325
Washington, D.C. 20554

This is an appeal from a decision by the Schools and Libraries Division of the USAC.
Enclosed are the original and four copies of the Appeal. An extra copy is also enclosed.

Please time stamp the extra copy and return it to me in the enclosed self addressed-
stamped envelope.

(1) Funding Commitment Decision Letter Appealed

Form 471 Application Number: 417459
Funding Year 2004: 07/01/2004-06/30/2005
Billed Entity Number: 126785

Date of Funding Denial Notice: July 20, 2004
Date of Appeal: August 17, 2004

(2) **SLD Contact Information**

Nathaniel Hawthorne, Attorney
27600 Chagrin Blvd., Ste 265
Cleveland, OH 44122
Tel. (216) 514.4798

(3) **Funding Request Numbers Appealed**

FRN -1148407

(4) **SLD's Reason for Funding Denial**

FRN 1148407

The SLD stated that funding is denied because:

"No contract was in place when the Form 471 was filed."

(5) **Applicant's Support for the Appeal**

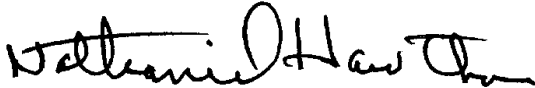
- a) January 13, 2004 was the Allowable Contract award date. Exhibit A, pg.4.
- b) January 21, 2004 was the date the Contract was executed. Exhibit B
- c) February 2, 2004, the Applicant filed its FCC Form 471. Exhibit A.
- d) February 2, 2004, is the SLD's "Cert. Postmark Date". Exhibit A, pg.1. This is also the "Application Received date".

6) Conclusion: Based on the SLD's own records, this request for funding should not have been denied. For FRN 1148407 a contract was in place when the 471 was filed by the District. Nicholas Request the Following "expedited" Action by the FCC:

(a) Within 90 days or less Order funding for the telecommunications services requested in the 471 Application, specifically FRN 1148407.

(b) Set aside funds to totally fund Nicholas's request.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nathaniel Hawthorne". The signature is fluid and cursive, with a large initial "N" and a long, sweeping underline.

Nathaniel Hawthorne
Attorney for
Nicholas County School District

District of Columbia Bar No. : 237693
27600 Chagrin Blvd., Ste. 265
Cleveland, OH 44122
tel.: 216/514.4798
e-mail: nhawthorne@earthlink.net

EXHIBIT A

**Schools and Libraries Universal Service Program
Services Ordered and Certification Form 471
Application Display**

Block 1: Billed Entity Information

Applicant's Form Identifier:
NICHOLASYR7#2

471 Application Number: 417459

Cert. Postmark Date: 02/02/2004

Out of Window Letter Date: Not applicable

Funding Year: 07/01/2004 -
06/30/2005

Form Status: CERTIFIED - In
Window

Billed Entity Number:
126785

RAL Date: 03/02/2004

Name: NICHOLAS COUNTY SCHOOL DIST
Address: 400 OLD MAIN DR
City: SUMMERSVILLE **State:** WV **Zip:** 26651 1360

Contact Name: CURRIE A. SUTTON
Address: 27600 CHAGRIN BLVD, STE 260
City: CLEVELAND **State:** OH **Zip:** 44122 4449

Type of Application: SCHOOL DISTRICT

Ineligible Orgs: N

Block 3: Impact of Services Ordered in THIS Application

Number of students to be served: 4418

Number of library patrons to be served:

SERVICE DESCRIPTION	BEFORE ORDER	AFTER ORDER
b. High-bandwidth voice/data/video service: How many buildings served before and after your order?	9	9
c. High-bandwidth voice/data/video service: Highest speed to a building before and after your order?	T1	T1
f. Direct connections to the Internet: How many before and after your order?	16	16
g. Direct connections to the Internet: Highest speed before and after your order?	T1	T1
h. Internet access(for schools): How many rooms have Internet access before and after your order?	324	324
i. Internet Access: How many computers (or other devices) with Internet access before and after your order?	1115	1115

Block 4: Worksheets

Worksheet A No: 581325**Student Count: 4418****Weighted Product (Sum. Column 8): 3521.9****Shared Discount: 80%**

1. School Name: BEAVER ELEMENTARY SCHOOL**2. Entity Number: 27389 3. Rural/Urban: Rural****4. Student Count: 135 5. NSLP Students: 98 6. NSLP Students/Students: 72.592%****7. Discount: 80% 8. Weighted Product: 108**

1. School Name: BIRCH RIVER ELEMENTARY SCHOOL**2. Entity Number: 27585 3. Rural/Urban: Rural****4. Student Count: 122 5. NSLP Students: 108 6. NSLP Students/Students: 88.524%****7. Discount: 90% 8. Weighted Product: 109.8**

1. School Name: CHERRY RIVER ELEMENTARY SCHOOL**2. Entity Number: 27412 3. Rural/Urban: Rural****4. Student Count: 312 5. NSLP Students: 246 6. NSLP Students/Students: 78.846%****7. Discount: 90% 8. Weighted Product: 280.8**

1. School Name: CRAIGSVILLE ELEMENTARY SCHOOL**2. Entity Number: 27387 3. Rural/Urban: Rural****4. Student Count: 333 5. NSLP Students: 243 6. NSLP Students/Students: 72.972%****7. Discount: 80% 8. Weighted Product: 266.4**

1. School Name: DIXIE ELEMENTARY SCHOOL**2. Entity Number: 26738 3. Rural/Urban: Rural****4. Student Count: 135 5. NSLP Students: 98 6. NSLP Students/Students: 72.592%****7. Discount: 80% 8. Weighted Product: 108**

1. School Name: GLADE CREEK ELEMENTARY SCHOOL**2. Entity Number: 27591 3. Rural/Urban: Rural****4. Student Count: 148 5. NSLP Students: 87 6. NSLP Students/Students: 58.783%****7. Discount: 80% 8. Weighted Product: 118.4**

1. School Name: MOUNT LOOKOUT ELEMENTARY SCH**2. Entity Number: 27600 3. Rural/Urban: Rural****4. Student Count: 157 5. NSLP Students: 85 6. NSLP Students/Students: 54.140%****7. Discount: 80% 8. Weighted Product: 125.6**

1. School Name: MOUNT NEBO ELEMENTARY SCHOOL**2. Entity Number: 27601 3. Rural/Urban: Rural****4. Student Count: 142 5. NSLP Students: 84 6. NSLP Students/Students: 59.154%****7. Discount: 80% 8. Weighted Product: 113.6**

1. School Name: NICHOLAS CO CAREER SCHOOL**2. Entity Number: 27388 3. Rural/Urban: Rural****4. Student Count: 0 5. NSLP Students: 0 6. NSLP Students/Students:****7. Discount: 80% 8. Weighted Product: 0**

1. School Name: NICHOLAS CO SENIOR HIGH SCHOOL**2. Entity Number: 27598 3. Rural/Urban: Rural****4. Student Count: 684 5. NSLP Students: 268 6. NSLP Students/Students: 39.181%****7. Discount: 70% 8. Weighted Product: 478.8**

1. School Name: PANTHER CREEK ELEMENTARY SCH**2. Entity Number: 27602 3. Rural/Urban: Rural****4. Student Count: 282 5. NSLP Students: 195 6. NSLP Students/Students: 69.148%****7. Discount: 80% 8. Weighted Product: 225.6**

1. School Name: RICHWOOD HIGH SCHOOL
 2. Entity Number: 27414 3. Rural/Urban: Rural
 4. Student Count: 329 5. NSLP Students: 199 6. NSLP Students/Students: 60.486%
 7. Discount: 80% 8. Weighted Product: 263.2

1. School Name: RICHWOOD JUNIOR HIGH SCHOOL
 2. Entity Number: 27413 3. Rural/Urban: Rural
 4. Student Count: 380 5. NSLP Students: 262 6. NSLP Students/Students: 68.947%
 7. Discount: 80% 8. Weighted Product: 304

1. School Name: SUMMERSVILLE ELEMENTARY SCHOOL
 2. Entity Number: 27595 3. Rural/Urban: Rural
 4. Student Count: 455 5. NSLP Students: 241 6. NSLP Students/Students: 52.967%
 7. Discount: 80% 8. Weighted Product: 364

1. School Name: SUMMERSVILLE JR HIGH SCHOOL
 2. Entity Number: 27599 3. Rural/Urban: Rural
 4. Student Count: 679 5. NSLP Students: 441 6. NSLP Students/Students: 64.948%
 7. Discount: 80% 8. Weighted Product: 543.2

1. School Name: ZELA ELEMENTARY SCHOOL
 2. Entity Number: 27593 3. Rural/Urban: Rural
 4. Student Count: 125 5. NSLP Students: 100 6. NSLP Students/Students: 80.000%
 7. Discount: 90% 8. Weighted Product: 112.5

Worksheet A No: 581326 Student Count: 559
 Weighted Product (Sum. Column 8): 503.1 Shared Discount: 90%

1. School Name: BIRCH RIVER ELEMENTARY SCHOOL
 2. Entity Number: 27585 3. Rural/Urban: Rural
 4. Student Count: 122 5. NSLP Students: 108 6. NSLP Students/Students: 88.524%
 7. Discount: 90% 8. Weighted Product: 109.8

1. School Name: CHERRY RIVER ELEMENTARY SCHOOL
 2. Entity Number: 27412 3. Rural/Urban: Rural
 4. Student Count: 312 5. NSLP Students: 246 6. NSLP Students/Students: 78.846%
 7. Discount: 90% 8. Weighted Product: 280.8

1. School Name: ZELA ELEMENTARY SCHOOL
 2. Entity Number: 27593 3. Rural/Urban: Rural
 4. Student Count: 125 5. NSLP Students: 100 6. NSLP Students/Students: 80.000%
 7. Discount: 90% 8. Weighted Product: 112.5

Worksheet A No: 581327 Student Count: 3175
 Weighted Product (Sum. Column 8): 2540 Shared Discount: 80%

1. School Name: BEAVER ELEMENTARY SCHOOL
 2. Entity Number: 27389 3. Rural/Urban: Rural
 4. Student Count: 135 5. NSLP Students: 98 6. NSLP Students/Students: 72.592%
 7. Discount: 80% 8. Weighted Product: 108

1. School Name: CRAIGSVILLE ELEMENTARY SCHOOL
 2. Entity Number: 27387 3. Rural/Urban: Rural
 4. Student Count: 333 5. NSLP Students: 243 6. NSLP Students/Students: 72.972%
 7. Discount: 80% 8. Weighted Product: 266.4

1. School Name: DIXIE ELEMENTARY SCHOOL

2. Entity Number: 26738 3. Rural/Urban: Rural
 4. Student Count: 135 5. NSLP Students: 98 6. NSLP Students/Students: 72.592%
 7. Discount: 80% 8. Weighted Product: 108

1. School Name: GLADE CREEK ELEMENTARY SCHOOL
 2. Entity Number: 27591 3. Rural/Urban: Rural
 4. Student Count: 148 5. NSLP Students: 87 6. NSLP Students/Students: 58.783%
 7. Discount: 80% 8. Weighted Product: 118.4

1. School Name: MOUNT LOOKOUT ELEMENTARY SCH
 2. Entity Number: 27600 3. Rural/Urban: Rural
 4. Student Count: 157 5. NSLP Students: 85 6. NSLP Students/Students: 54.140%
 7. Discount: 80% 8. Weighted Product: 125.6

1. School Name: MOUNT NEBO ELEMENTARY SCHOOL
 2. Entity Number: 27601 3. Rural/Urban: Rural
 4. Student Count: 142 5. NSLP Students: 84 6. NSLP Students/Students: 59.154%
 7. Discount: 80% 8. Weighted Product: 113.6

1. School Name: PANTHER CREEK ELEMENTARY SCH
 2. Entity Number: 27602 3. Rural/Urban: Rural
 4. Student Count: 282 5. NSLP Students: 195 6. NSLP Students/Students: 69.148%
 7. Discount: 80% 8. Weighted Product: 225.6

1. School Name: RICHWOOD HIGH SCHOOL
 2. Entity Number: 27414 3. Rural/Urban: Rural
 4. Student Count: 329 5. NSLP Students: 199 6. NSLP Students/Students: 60.486%
 7. Discount: 80% 8. Weighted Product: 263.2

1. School Name: RICHWOOD JUNIOR HIGH SCHOOL
 2. Entity Number: 27413 3. Rural/Urban: Rural
 4. Student Count: 380 5. NSLP Students: 262 6. NSLP Students/Students: 68.947%
 7. Discount: 80% 8. Weighted Product: 304

1. School Name: SUMMERSVILLE ELEMENTARY SCHOOL
 2. Entity Number: 27595 3. Rural/Urban: Rural
 4. Student Count: 455 5. NSLP Students: 241 6. NSLP Students/Students: 52.967%
 7. Discount: 80% 8. Weighted Product: 364

1. School Name: SUMMERSVILLE JR HIGH SCHOOL
 2. Entity Number: 27599 3. Rural/Urban: Rural
 4. Student Count: 679 5. NSLP Students: 441 6. NSLP Students/Students: 64.948%
 7. Discount: 80% 8. Weighted Product: 543.2

Block 5: Discount Funding Request(s)

FRN: 1148407 FCDL Date:	
11. Category of Service: Internal Connections	12. 470 Application Number: 177710000483003
13. SPIN: 143004468	14. Service Provider Name: Verizon Network Integration, Inc.
15. Contract Number: C	16. Billing Account Number:
17. Allowable Contract Date: 01/13/2004	18. Contract Award Date: 02/02/2004
	19b. Service End Date:

19a. Service Start Date: 07/01/2004	
20. Contract Expiration Date: 06/30/2005	
21. Attachment #: R	22. Block 4 Worksheet No.: 581325
23a. Monthly Charges: \$.00	23b. Ineligible monthly amt.: \$.00
23c. Eligible monthly amt.: \$0.00	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$0.00	
23f. Annual non-recurring (one-time) charges: \$20,968.32	23g. Ineligible non-recurring amt.: \$.00
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$20,968.32	
23i. Total program year pre-discount amount (23e + 23h): \$20,968.32	
23j. % discount (from Block 4): 80	
23k. Funding Commitment Request (23i x 23j): \$16,774.66	

Block 6: Certifications and Signature

24a. Schools: Y
 24b. Libraries or Library Consortia: N

26a. Individual Technology Plan: Y
 26b. Higher-Level Technology Plan(s): N
 26c. No Technology Plan Needed:

27a. Approved Technology Plan(s): Y
 27b. State Approved Technology Plan: N
 27c. No Technology Plan Needed:



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EXHIBIT B

Quote**version**

500 Technology Drive
So Charleston, WV 25309
(304) 746-1025
(304) 746-1010

Quote # 371115
Revision # 1
Date 1/21/2004
Customer # 70316

Sold To:
Nicholas County B.o.e,
400 Old Main Drive
Summersville, WV 26651 USA
ATTN: Joe Dooley

Ship To:
Nicholas County B.o.e.
400 Old Main Drive
Summersville, WV 26651 USA
ATTN: Joe Dooley

Quote Date 01/21/2004	Purchase Order No.	Payment Term	Market Charleston
Project Engineer	NSE	CAM	Outside Sales
			Inside Sales
Item No.	Description	Qty	Price
			Extension

***** PLEASE NOTE *****

Quote for drop shipment of (8) 2850 Cisco Routers with Smartnet maintenance.

Pricing for this quote is from the WVNet Contract # 27175.

1) Router				
CISCO2850XM	MOD RTR HIGH PERF 10/100 W/IOS IP	6	\$2,108.80	\$12,652.80
Included in Chassis without charge: Power Cable - CAB-AC DRAM memory - MEM2800XM-64U128D Flash memory - MEM2800-16U32HS				
R28CP-12215T	SOFTWARE IOS IP PLUS	6	\$448.00	\$2,688.00
WIC-1DSU-T1	1-POR/T1/FRACTIONAL T1 DSU/CSU WAN INTE	6	\$640.00	\$3,840.00
			Sub Total:	\$19,180.80
2) SmartNet maintenance				
CON-SNT-28XX	SMARTNET MAINTENANCE CISCO 28XX	6	\$297.92	\$1,787.52
			Sub Total:	\$1,787.52

3) Notes

Quote valid only upon receiving a signed purchase order.

Quote

verion

500 Technology Drive	Quote #	Revision #	Date	Customer #
So Charleston, WV 25309	371115	1	1/21/2004	70316
(304) 746-1025				
(304) 746-1010				

Sold To:

Nicholas County B.o.e.
400 Old Main Drive
Summersville, WV 26651 USA
ATTN: Joe Dooley

Ship To:

Nicholas County B.o.e.
400 Old Main Drive
Summersville, WV 26651 USA
ATTN: Joe Dooley

Quote Date 01/21/2004	Purchase Order No.	Payment Term	Market Charleston
Project Engineer	NSE	CAM	Outside Sales Inside Sales

Product and Labor Totals: \$19,180.80

Maintenance Per Attached Terms And Conditions: \$1,787.52

Grand Total: \$20,968.32

Quote

verizon

500 Technology Drive
So Charleston, WV 25309
(304) 746-1025
(304) 746-1010

Quote #
371115

Revision #
1

Date
1/21/2004

Customer #
70316

Sold To:

Nicholas County B.o.e.
400 Old Main Drive
Summersville, WV 26851 USA
ATTN: Joe Dooley

Ship To:

Nicholas County B.o.e.
400 Old Main Drive
Summersville, WV 26851 USA
ATTN: Joe Dooley

Quote Date 01/21/2004	Purchase Order No.	Payment Term	Market Charleston
Project Engineer	NSE	CAM	Outside Sales Inside Sales

CONTRACTUAL TERMS AND CONDITIONS - READ CAREFULLY

This Quote shall remain firm for thirty (30) days from the Quote Date shown on Page 1. Where this Quote is utilized in furtherance of or to confirm an order under an existing contract, the terms and conditions of such contract shall govern.

Upon execution and submission hereof by Customer this Quote, any attached Statement of Work and any order subsequently placed hereunder shall be subject to the terms and conditions herein and shall constitute the entire agreement ("Agreement") between Verizon Network Integration Corp. ("VNI") and Customer with regard to the subject matter hereof. Customer's execution hereof or delivery of any goods or services described herein shall constitute acceptance by Customer of these terms and conditions, and VNI will not be bound by any terms or conditions which are inconsistent herewith. No amendment or waiver of this Agreement shall be valid unless executed in writing by VNI's authorized representative. Prices herein and delivery terms are F.O.B. point of shipment. Customer is responsible for payment of all charges, including but not limited to applicable shipping, handling and taxes. In accordance with the payment terms set forth in this Quote, all goods provided hereunder will be invoiced upon delivery. All services provided hereunder will be invoiced monthly on a percent-of-completion basis. Past due amounts shall be subject to a late payment charge equal to 1.5% per month or, if less, the maximum lawful rate then in effect. Customer hereby grants to VNI a security interest in the goods provided hereunder and any associated proceeds in order to secure final payment hereunder; upon request, Customer shall at its expense execute, deliver to VNI and pay all filing costs associated with any documents necessary and appropriate to evidence and perfect such security interest. Title shall pass to Customer upon payment in full, and this Agreement shall survive the transfer of title. Customer shall pay a restocking fee in the event of return of any goods provided hereunder. This Agreement shall be binding upon the parties' respective successors and assigns. Neither party shall assign this Agreement without the other's prior written consent. No waiver of any provision of this Agreement shall be deemed a waiver of any other provision hereof, nor shall any such waiver constitute a continuing waiver. VNI may identify Customer in a client list or otherwise use Customer as a reference. This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania without regard to the laws of any jurisdiction regarding conflicts of laws or choice of laws.

GOODS PROVIDED HEREUNDER ARE WARRANTED BY THE MANUFACTURER AND SUCH WARRANTY WILL BE PASSED THROUGH TO CUSTOMER. VNI MAKES NO INDEPENDENT REPRESENTATION OR WARRANTY WITH RESPECT TO SUCH GOODS AND ASSUMES NO LIABILITY TO CUSTOMER FOR DAMAGES OF ANY KIND ATTRIBUTABLE TO ANY BREACH OF THE MANUFACTURER'S WARRANTY. VNI WARRANTS THAT ALL SERVICES HEREUNDER WILL BE PROVIDED IN A WORKMANLIKE MANNER AND ARE WARRANTED FOR NINETY (90) DAYS FROM THE DATE THE SERVICE IS PROVIDED; CUSTOMER'S EXCLUSIVE REMEDY WITH RESPECT THERETO SHALL BE REPAIR, REPLACEMENT OR REFUND, AT VNI'S SOLE OPTION. EXCEPT AS SET FORTH HEREIN, VNI MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE. UNDER NO CIRCUMSTANCES SHALL VNI BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER THE CLAIM OR REMEDY IS SOUGHT IN CONTRACT OR TORT (INCLUDING VNI'S NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO LOSS OF USE AND LOST PROFITS, EVEN IF VNI HAS BEEN ADVISED OF THE POSSIBILITY THEREOF.

Customer: X. Gustafson

Accepted By: _____

Title: _____

Date: _____